

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BRENT LUYSTER,

Plaintiff,

v.

RIC BISHOP, et al.,

Defendants.

CASE NO. C18-6022 BHS-MLP

ORDER ADOPTING REPORT  
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Michelle L. Peterson, United States Magistrate Judge. Dkt. 56. The Court having considered the R&R and the remaining record, and no objections having been filed, does hereby find and order as follows:

(1) The R&R is **ADOPTED**;

(2) Defendants’ motion for summary judgment is **GRANTED in part** and

**DENIED in part** as follows:

Plaintiff’s: (1) First Amendment claims; (2) Fourth Amendment claims against Defendants Tangen, Barnett, and Bishop, in their official capacities; (3) visitation rights claims against all Defendants, save for Defendant Gentry in his official capacity; (4)

1 exercise and recreation claims, save for Defendant Gentry in his individual and official  
2 capacity; (5) claims related to oral hygiene and shaving materials; (6) sanitary conditions  
3 claims against all Defendants, save for Defendants Gentry, Plotner, and Dougher, in their  
4 individual capacities; (7) claims related to access to bedding and clothing; (8) mental  
5 health treatment claims against all Defendants, save for Defendants Gentry, Plotner, and  
6 Dougher, in their individual capacities; (9) nutraloaf claims against all Defendants, save  
7 for Defendant Gentry in his individual capacity; (10) strip search and leg shackle claims  
8 against Defendants Tangen, Barnett, and Bishop, in their official capacities; (11)  
9 Fourteenth Amendment Equal Protection Clause claims; (12) Washington state law tort  
10 claims; and (13) claims for injunctive relief are **DISMISSED with prejudice** as Plaintiff  
11 failed to amend his complaint to correct deficiencies previously identified with respect to  
12 these claims;

13 Defendants' Motion is **GRANTED** as to Plaintiff's: (1) visitation rights claim  
14 against Defendant Gentry, in his official capacity; and (2) mental health treatment claims  
15 against Defendants Gentry, Plotner, and Dougher, in their individual capacities, and these  
16 claims are dismissed without prejudice for failure to exhaust;

17 Defendants' Motion is **GRANTED** as to Plaintiff's: (1) Fourth Amendment  
18 Claims against Defendants Gentry, Austin, Ashworth, Anderson, Plotner, Schaub, and  
19 Wolfe, in their individual and official capacities; (2) exercise and recreation claims  
20 against Defendant Gentry, in his individual and official capacity; and (3) strip search and  
21 leg shackle claims against Defendants Gentry, Austin, Ashworth, Anderson, Plotner,  
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1 Schaub, and Wolfe, in their individual and official capacities, and these claims are  
2 dismissed with prejudice;

3 Defendants' Motion is **DENIED** as to Plaintiff's Fourteenth Amendment claims  
4 regarding: (1) the unsanitary conditions of his cell against Defendants Gentry, Plotner,  
5 and Dougher, in their individual capacities; and (2) nutraloaf claims against Defendant  
6 Gentry, in his individual capacity.

7 (3) The Clerk shall terminate Defendants Bishop, Tangen, Barnett, Austin,  
8 Ashworth, Anderson, Schaub, and Wolfe as parties in this case;

9 (4) The Clerk shall send copies of this Order to the parties; and

10 (5) The parties shall submit a joint status report regarding trial length and  
11 availability within **45 days** of this Order.

12 Dated this 27th day of September, 2021.

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15 BENJAMIN H. SETTLE  
16 United States District Judge  
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